

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 632

Introduced by Assembly Member Fox

February 20, 2013

An act to amend Section ~~1208~~ 395 of the ~~Penal Code~~ Code of Civil Procedure, relating to ~~work furlough~~ courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 632, as amended, Fox. ~~Work furlough: county jails. Superior Courts: judicial districts.~~

Existing law, except as otherwise provided, makes the superior court in the county where the defendants or some of the defendants reside at the commencement of an action the proper court for the trial of the action. Existing law makes the superior court in the county where an injury occurs or where the defendant or some of the defendants reside the proper court for an action if the action is for injury to person or personal property or death from wrongful act of negligence.

This bill would make the judicial district of the superior court in the county where the defendant or some of the defendants reside or where the acts occurred the proper court for purposes of the above actions.

~~Existing law authorizes a county, upon approval by the board of supervisors, to establish a work furlough program. Existing law authorizes the board to designate a county facility and a work furlough administrator for the program, as specified. Existing law provides that when a person is convicted of a misdemeanor and sentenced to a county jail, the work furlough administrator may, if he or she concludes that the person is a fit subject to continue in his or her regular employment or job training program, direct that the person be permitted to continue~~

~~in that employment or job training program, as specified, or may authorize the person to secure employment or local job training for himself or herself, unless the court at the time of sentencing or committing has ordered that the person not be granted work furlough. Existing law describes job training for purposes of these provisions.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 395 of the Code of Civil Procedure is
2 amended to read:
3 395. (a) Except as otherwise provided by law and subject to
4 the power of the court to transfer actions or proceedings as provided
5 in this title, the *judicial district of the* superior court in the county
6 where the defendants or some of them reside at the commencement
7 of the action is the proper court for the trial of the action. If the
8 action is for injury to person or personal property or for death from
9 wrongful act or negligence, ~~the judicial district of the superior~~
10 court in either the county where the injury occurs or the injury
11 causing death occurs or ~~the county judicial district of the superior~~
12 court in the county where the defendants, or some of them reside
13 at the commencement of the action, is a proper court for the trial
14 of the action. In a proceeding for dissolution of marriage, the
15 superior court in the county where either the petitioner or
16 respondent has been a resident for three months next preceding
17 the commencement of the proceeding is the proper court for the
18 trial of the proceeding. In a proceeding for nullity of marriage or
19 legal separation of the parties, the superior court in the county
20 where either the petitioner or the respondent resides at the
21 commencement of the proceeding is the proper court for the trial
22 of the proceeding. In a proceeding to enforce an obligation of
23 support under Section 3900 of the Family Code, the superior court
24 in the county where the child resides is the proper court for the
25 trial of the action. In a proceeding to establish and enforce a foreign
26 judgment or court order for the support of a minor child, the
27 superior court in the county where the child resides is the proper
28 court for the trial of the action. Subject to subdivision (b), if a

1 defendant has contracted to perform an obligation in a particular
2 county, the superior court in the county where the obligation is to
3 be performed, where the contract in fact was entered into, or where
4 the defendant or any defendant resides at the commencement of
5 the action is a proper court for the trial of an action founded on
6 that obligation, and the county where the obligation is incurred is
7 the county where it is to be performed, unless there is a special
8 contract in writing to the contrary. If none of the defendants reside
9 in the state or if they reside in the state and the county where they
10 reside is unknown to the plaintiff, the action may be tried in the
11 superior court in any county that the plaintiff may designate in his
12 or her complaint, and, if the defendant is about to depart from the
13 state, the action may be tried in the superior court in any county
14 where either of the parties reside or service is made. If any person
15 is improperly joined as a defendant or has been made a defendant
16 solely for the purpose of having the action tried in the superior
17 court in the county where he or she resides, his or her residence
18 shall not be considered in determining the proper place for the trial
19 of the action.

20 (b) Subject to the power of the court to transfer actions or
21 proceedings as provided in this title, in an action arising from an
22 offer or provision of goods, services, loans or extensions of credit
23 intended primarily for personal, family or household use, other
24 than an obligation described in Section 1812.10 or Section 2984.4
25 of the Civil Code, or an action arising from a transaction
26 consummated as a proximate result of either an unsolicited
27 telephone call made by a seller engaged in the business of
28 consummating transactions of that kind or a telephone call or
29 electronic transmission made by the buyer or lessee in response
30 to a solicitation by the seller, the superior court in the county where
31 the buyer or lessee in fact signed the contract, where the buyer or
32 lessee resided at the time the contract was entered into, or where
33 the buyer or lessee resides at the commencement of the action is
34 the proper court for the trial of the action. In the superior court
35 designated in this subdivision as the proper court, the proper court
36 location for trial of a case is the location where the court tries that
37 type of case that is nearest or most accessible to where the buyer
38 or lessee resides, where the buyer or lessee in fact signed the
39 contract, where the buyer or lessee resided at the time the contract
40 was entered into, or where the buyer or lessee resides at the

1 commencement of the action. Otherwise, any location of the
2 superior court designated as the proper court in this subdivision is
3 a proper court location for the trial. The court may specify by local
4 rule the nearest or most accessible court location where the court
5 tries that type of case.

6 (c) Any provision of an obligation described in subdivision (b)
7 waiving that subdivision is void and unenforceable.

8 ~~SECTION 1. Section 1208 of the Penal Code is amended to~~
9 ~~read:~~

10 ~~1208. (a) (1) The provisions of this section, insofar as they~~
11 ~~relate to employment, shall be operative in any county in which~~
12 ~~the board of supervisors by ordinance finds, on the basis of~~
13 ~~employment conditions, the state of the county jail facilities, and~~
14 ~~other pertinent circumstances, that the operation of this section,~~
15 ~~insofar as it relates to employment, in that county is feasible. The~~
16 ~~provisions of this section, insofar as they relate to job training,~~
17 ~~shall be operative in any county in which the board of supervisors~~
18 ~~by ordinance finds, on the basis of job training conditions, the state~~
19 ~~of the county jail facilities, and other pertinent circumstances, that~~
20 ~~the operation of this section, insofar as it relates to job training, in~~
21 ~~that county is feasible. The provisions of this section, insofar as~~
22 ~~they relate to education, shall be operative in any county in which~~
23 ~~the board of supervisors by ordinance finds, on the basis of~~
24 ~~education conditions, the state of the county jail facilities, and~~
25 ~~other pertinent circumstances, that the operation of this section,~~
26 ~~insofar as it relates to education, in that county is feasible. In any~~
27 ~~ordinance the board shall prescribe whether the sheriff, the~~
28 ~~probation officer, the director of the county department of~~
29 ~~corrections, or the superintendent of a county industrial farm or~~
30 ~~industrial road camp in the county shall perform the functions of~~
31 ~~the work furlough administrator. The board may, in that ordinance,~~
32 ~~provide for the performance of any or all functions of the work~~
33 ~~furlough administrator by any one or more of those persons, acting~~
34 ~~separately or jointly as to any of the functions; and may, by a~~
35 ~~subsequent ordinance, revise the provisions within the authorization~~
36 ~~of this section. The board of supervisors may also terminate the~~
37 ~~operation of this section, either with respect to employment, job~~
38 ~~training, or education in the county if it finds by ordinance that~~
39 ~~because of changed circumstances, the operation of this section,~~

1 either with respect to employment, job training, or education in
2 that county is no longer feasible.

3 ~~(2) Notwithstanding any other provision of law, the board of~~
4 ~~supervisors may by ordinance designate a facility for confinement~~
5 ~~of prisoners classified for the work furlough program and designate~~
6 ~~the work furlough administrator as the custodian of the facility.~~
7 ~~The work furlough administrator may operate the work furlough~~
8 ~~facility or, with the approval of the board of supervisors, administer~~
9 ~~the work furlough facility pursuant to written contracts with~~
10 ~~appropriate public or private agencies or private entities. No agency~~
11 ~~or private entity may operate a work furlough program or facility~~
12 ~~without a written contract with the work furlough administrator,~~
13 ~~and no agency or private entity entering into a written contract~~
14 ~~may itself employ any person who is in the work furlough program.~~
15 ~~The sheriff or director of the county department of corrections, as~~
16 ~~the case may be, is authorized to transfer custody of prisoners to~~
17 ~~the work furlough administrator to be confined in a facility for the~~
18 ~~period during which they are in the work furlough program.~~

19 ~~(3) All privately operated local work furlough facilities and~~
20 ~~programs shall be under the jurisdiction of, and subject to the terms~~
21 ~~of a written contract entered into with, the work furlough~~
22 ~~administrator. Each contract shall include, but not be limited to, a~~
23 ~~provision whereby the private agency or entity agrees to operate~~
24 ~~in compliance with all appropriate state and local building, zoning,~~
25 ~~health, safety, and fire statutes, ordinances, and regulations and~~
26 ~~the minimum jail standards for Type IV facilities as established~~
27 ~~by regulations adopted by the Board of State and Community~~
28 ~~Corrections, and a provision whereby the private agency or entity~~
29 ~~agrees to operate in compliance with Section 1208.2, which~~
30 ~~provides that no eligible person shall be denied consideration for,~~
31 ~~or be removed from, participation in a work furlough program~~
32 ~~because of an inability to pay all or a portion of the program fees.~~
33 ~~The private agency or entity shall select and train its personnel in~~
34 ~~accordance with selection and training requirements adopted by~~
35 ~~the Board of State and Community Corrections as set forth in~~
36 ~~Subchapter 1 (commencing with Section 100) of Chapter 1 of~~
37 ~~Division 1 of Title 15 of the California Code of Regulations.~~
38 ~~Failure to comply with the appropriate health, safety, and fire laws~~
39 ~~or minimum jail standards adopted by the board may be cause for~~
40 ~~termination of the contract. Upon discovery of a failure to comply~~

1 with these requirements, the work furlough administrator shall
2 notify the privately operated program director that the contract
3 may be canceled if the specified deficiencies are not corrected
4 within 60 days.

5 (4) All private work furlough facilities and programs shall be
6 inspected biennially by the Board of State and Community
7 Corrections unless the work furlough administrator requests an
8 earlier inspection pursuant to Section 6031.1. Each private agency
9 or entity shall pay a fee to the Board of State and Community
10 Corrections commensurate with the cost of those inspections and
11 a fee commensurate with the cost of the initial review of the
12 facility.

13 (b) When a person is convicted of a misdemeanor and sentenced
14 to the county jail, or is imprisoned in the county jail for
15 nonpayment of a fine, for contempt, or as a condition of probation
16 for any criminal offense, the work furlough administrator may, if
17 he or she concludes that the person is a fit subject to continue in
18 his or her regular employment, direct that the person be permitted
19 to continue in that employment, if that is compatible with the
20 requirements of subdivision (c), or may authorize the person to
21 secure employment for himself or herself, unless the court at the
22 time of sentencing or committing has ordered that the person not
23 be granted work furloughs. The work furlough administrator may,
24 if he or she concludes that the person is a fit subject to continue
25 in his or her job training program, direct that the person be
26 permitted to continue in that job training program, if that is
27 compatible with the requirements of subdivision (c), or may
28 authorize the person to secure local job training for himself or
29 herself, unless the court at the time of sentencing has ordered that
30 person not be granted work furloughs. The work furlough
31 administrator may, if he or she concludes that the person is a fit
32 subject to continue in his or her regular educational program, direct
33 that the person be permitted to continue in that educational
34 program, if that is compatible with the requirements of subdivision
35 (c), or may authorize the person to secure education for himself
36 or herself, unless the court at the time of sentencing has ordered
37 that person not be granted work furloughs.

38 (c) If the work furlough administrator so directs that the prisoner
39 be permitted to continue in his or her regular employment, job
40 training, or educational program, the administrator shall arrange

1 for a continuation of that employment or for that job training or
2 education, so far as possible without interruption. If the prisoner
3 does not have regular employment or a regular job training or
4 educational program, and the administrator has authorized the
5 prisoner to secure employment, job training, or education for
6 himself or herself, the prisoner may do so, and the administrator
7 may assist the prisoner in doing so. Any employment, job training,
8 or education so secured shall be suitable for the prisoner. The
9 employment, and the job training or educational program if it
10 includes earnings by the prisoner, shall be at a wage at least as
11 high as the prevailing wage for similar work in the area where the
12 work is performed and in accordance with the prevailing working
13 conditions in that area. In no event may any employment, job
14 training, or educational program involving earnings by the prisoner
15 be permitted where there is a labor dispute in the establishment in
16 which the prisoner is, or is to be, employed, trained, or educated.

17 (d) (1) Whenever the prisoner is not employed or being trained
18 or educated and between the hours or periods of employment,
19 training, or education, the prisoner shall be confined in the facility
20 designated by the board of supervisors for work furlough
21 confinement unless the work furlough administrator directs
22 otherwise. If the prisoner is injured during a period of employment,
23 job training, or education, the work furlough administrator shall
24 have the authority to release him or her from the facility for
25 continued medical treatment by private physicians or at medical
26 facilities at the expense of the employer, workers' compensation
27 insurer, or the prisoner. The release shall not be construed as
28 assumption of liability by the county or work furlough
29 administrator for medical treatment obtained.

30 (2) The work furlough administrator may release any prisoner
31 classified for the work furlough program for a period not to exceed
32 72 hours for medical, dental, or psychiatric care, or for family
33 emergencies or pressing business which would result in severe
34 hardship if the release were not granted, or to attend those activities
35 as the administrator deems may effectively promote the prisoner's
36 successful return to the community, including, but not limited to,
37 an attempt to secure housing, employment, entry into educational
38 programs, or participation in community programs.

39 (e) The earnings of the prisoner may be collected by the work
40 furlough administrator, and it shall be the duty of the prisoner's

1 employer to transmit the wages to the administrator at the latter's
2 request. Earnings levied upon pursuant to writ of execution or in
3 other lawful manner shall not be transmitted to the administrator.
4 If the administrator has requested transmittal of earnings prior to
5 levy, that request shall have priority. In a case in which the
6 functions of the administrator are performed by a sheriff, and the
7 sheriff receives a writ of execution for the earnings of a prisoner
8 subject to this section but has not yet requested transmittal of the
9 prisoner's earnings pursuant to this section, the sheriff shall first
10 levy on the earnings pursuant to the writ. When an employer or
11 educator transmits earnings to the administrator pursuant to this
12 subdivision, the sheriff shall have no liability to the prisoner for
13 those earnings. From the earnings the administrator shall pay the
14 prisoner's board and personal expenses, both inside and outside
15 the jail, and shall deduct so much of the costs of administration of
16 this section as is allocable to the prisoner or if the prisoner is unable
17 to pay that sum, a lesser sum as is reasonable, and, in an amount
18 determined by the administrator, shall pay the support of the
19 prisoner's dependents, if any. If sufficient funds are available after
20 making the foregoing payments, the administrator may, with the
21 consent of the prisoner, pay, in whole or in part, the preexisting
22 debts of the prisoner. Any balance shall be retained until the
23 prisoner's discharge. Upon discharge the balance shall be paid to
24 the prisoner.

25 (f) ~~The prisoner shall be eligible for time credits pursuant to~~
26 ~~Sections 4018 and 4019.~~

27 (g) ~~In the event the prisoner violates the conditions laid down~~
28 ~~for his or her conduct, custody, job training, education, or~~
29 ~~employment, the work furlough administrator may order the~~
30 ~~balance of the prisoner's sentence to be spent in actual confinement.~~

31 (h) ~~Willful failure of the prisoner to return to the place of~~
32 ~~confinement not later than the expiration of any period during~~
33 ~~which he or she is authorized to be away from the place of~~
34 ~~confinement pursuant to this section is punishable as provided in~~
35 ~~Section 4532.~~

36 (i) ~~The court may recommend or refer a person to the work~~
37 ~~furlough administrator for consideration for placement in the work~~
38 ~~furlough program or a particular work furlough facility. The~~
39 ~~recommendation or referral of the court shall be given great weight~~

1 in the determination of acceptance or denial for placement in the
2 work furlough program or a particular work furlough facility.

3 (j) ~~As used in this section, the following definitions apply:~~

4 (1) ~~“Education” includes vocational and educational training~~
5 ~~and counseling, and psychological, drug abuse, alcoholic, and~~
6 ~~other rehabilitative counseling.~~

7 (2) ~~“Educator” includes a person or institution providing that~~
8 ~~training or counseling.~~

9 (3) ~~“Employment” includes care of children, including the~~
10 ~~daytime care of children of the prisoner.~~

11 (4) ~~“Job training” may include, but shall not be limited to, job~~
12 ~~training assistance.~~

13 (k) ~~This section shall be known and may be cited as the “Cobey~~
14 ~~Work Furlough Law.”~~